

April 19, 2012

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Dear Chairman Genachowski:

The Public Interest Public Airwaves Coalition, including the Benton Foundation,¹ Campaign Legal Center, Common Cause, Free Press, Media Access Project, New America Foundation, and the Office of Communication of The United Church of Christ, respectfully submits this letter to reaffirm our staunch support for the Commission's proposal to require television broadcasters to replace their outmoded paper public inspection files, including their political files, with an online file hosted by the FCC.

These political files help to reveal how often, to whom and on what terms broadcasters sell access to the public airwaves for political advertising purposes. This important information is supposed to be available to anyone who wants to see it. In reality it is largely inaccessible to the public because it remains buried in paper files at the stations themselves. Replacing these paper records with an online requirement, as proposed by the FCC, will enable the public to better evaluate the interests behind these political messages by enhancing access to this information.

The Coalition is concerned by reports that broadcasters want to restrict the amount of political file information that members of the public can access online. Specifically, they want to provide only aggregate data on political advertising sales, while concealing more detailed information about how much stations charge for the purchase of political advertising time, as well as whether a station accepted or rejected a request to purchase time, the date and time a political advertising message aired, and the class of time purchased.² Additionally, these proposals also potentially appear to exclude from online posting the information that stations must collect about political and issue advertising purchased by groups organized under sections 501(c) and 527 of the internal revenue code, including independent expenditure committees (so-called "Super PACs").

We reiterate that, per an act of Congress, the information that the broadcasters seek to obscure already is required to be made public.³ Broadcasters have no right to suppress these records, but have an affirmative duty under the law to disclose them. It would be

¹ The Benton Foundation is a nonprofit organization dedicated to promoting communication in the public interest. These comments reflect the institutional view of the Foundation and, unless obvious from the text, are not intended to reflect the views of individual Foundation officers, directors, or advisors.

² See Letter from Mary Jo Manning, Counsel to Barrington et al, filed MM Dkts 00-168, 00-44, 11-189 (Feb. 15, 2012); Letter from Maureen A. O'Connell, Senior Vice President Regulatory and Government Affairs for News Corporation, filed MM Dkts 00-168, 00-44 (Apr. 19, 2012).

³ 47 U.S.C. § 315(e).

inconsistent with this statutory duty and contrary to sound public policy to permit broadcasters to limit the public's online access to this information.

Secondly, the broadcasters' proposal would create a filing regime that effectively doubles their political recordkeeping burden. The limited information that broadcasters propose to disclose online is legally deficient under section 315(e) of the Communications Act. Thus, to compensate for this inadequacy, broadcasters would have to maintain two separate political records – one online and one offline – while diminishing the amount and types of information that members of the public can conveniently access.

Conversely, the Commission's current proposal to replace entirely TV stations' paper files with an online file is the far simpler, less onerous and more transparent course of action.

Paradoxically, for the better part of this proceeding, broadcasters have complained that putting their political files online would be too burdensome. While such claims are absurd on their face, they are further undermined by the fact that broadcasters now seem all too willing to take on additional burdens, so long as such efforts enable them to more effectively conceal information from the public.

Public information should be *public*. In the 21st Century that means online – not buried in broadcast station filing cabinets. The FCC should not compromise when it comes to the transparency and information our communities need. To this end, we strongly support the Commission's initiative to make all required components of broadcaster political files accessible and transparent to the public through online posting.

Respectfully
submitted,
_____/s/_____
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Free Press
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*On behalf of the
Public Interest Public
Airwaves Coalition*